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TIMELY PAYMENT OF ASSESSED CONTRIBUTIONS

Open-ended discussion group on timely payment of assessed contributions

Report by the Chairman, H. E. Mr. A. Benmoussa, Morocco

Summary

Reports on the work of the discussion group since the resumed eighteenth session of the Industrial Development Board. Proposes measures to encourage payment of arrears and timely payment of assessed contributions.

1. At its resumed eighteenth session, the Industrial Development Board adopted decision IDB.18/Dec.11, in which it decided that the open-ended discussion group on timely payment of assessed contributions should continue its work. In that same decision, the Board decided that the work should continue under the chairmanship of H.E. Mr. A. Benmoussa (Morocco).

2. At the seventh session of the General Conference, in decision GC.7/Dec.10, the Conference noted with concern the very irregular payment pattern by Member States and the consequences that might have on the Organization's ability to meet its commitments. In addition, the Conference requested the intersessional open-ended discussion group on timely payment of assessed contributions to present concrete recommendations in that regard to the Board at its nineteenth session. Furthermore, in resolution GC.7/Res.2, the Conference requested the open-ended discussion group to examine the various options contained in document IDB.18/18 on the collection of unpaid assessed contributions from the United States Government, as well as any other proposals coming from Member States, and to make concrete recommendations to the Board at its nineteenth session.

3. The discussion group held seven meetings: 12 December 1997 (preparatory meeting), 20 January, 4, 12 and 18 February, 12 March (at the level of regional group chairpersons), 26 March, 6 May (at the regional group level) and 14 May. The report of the chairman is contained in the annex to the present document.

ACTION REQUIRED OF THE BOARD

4. The Board may wish to consider the recommendations contained in the report of the open-ended discussion group and adopt a decision that would enable the Director-General to implement those measures agreed by the Board to ensure timely payment of assessed contributions, as requested in General Conference decision GC.7/Dec.10.

For reasons of economy, this document has been printed in a limited number. Delegates are kindly requested to bring their copies of documents to meetings.

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Annex

REPORT BY THE CHAIRMAN OF THE OPEN-ENDED DISCUSSION GROUP ON TIMELY PAYMENT OF ASSESSED CONTRIBUTIONS

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Abbreviations

FAO	Food and Agriculture Organization of the United Nations
ICAO	International Civil Aviation Organization
ILO	International Labour Organization
IMO	International Maritime Organization
ITU	International Telecommunication Union
LDC	least developed country
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UPU	Universal Postal Union
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization

Introduction

1. More than many other international organizations, UNIDO, for various reasons, has been experiencing chronic delays in payment and non-payment of assessed contributions from a majority of its Member States.

2. These arrears constitute a serious hindrance to the implementation of mandated activities and furthermore discourage those very few countries who meet their obligations on a regular basis. The practices of delay in payment and of non-payment are in contradiction with the fundamental principle of adherence to the legal obligations of membership in the Organization, notably through fulfilment of the financial obligations towards the Organization.

3. Recognizing that practical solutions to this problem are urgently needed, the policy-making organs of UNIDO had established the discussion group on timely payment of assessed contributions. The mandates of the Group were strengthened considerably by the recent sessions of all the policy-making organs, which requested the Director-General to start implementing the recommendations of the Group as adopted by the Board.

I. BACKGROUND

A. Objectives

4. The discussion group had the following objectives before it:

(a) To propose concrete measures for the settlement of arrears (excluding those of the United States of America);

(b) To propose concrete measures to expedite the payment of assessed contributions;

(c) To examine various options for the recovery of unpaid assessed contributions of the United States.

B. Duration

5. The group will complete its task, unless the Board decides otherwise, by presenting its report to the nineteenth session of the Board in May 1998.

II. SETTLEMENT OF ARREARS

A. Present situation

6. As of 19 January 1998, the total amount of assessed contributions outstanding was $164,694,298 (in US dollar equivalent, at an exchange rate of US$ 1 = AS 2.50),[1] including the United States arrears of $60,601,458 (tables showing the total amount of assessed contributions listed according to Member States and tables indicating the assessed contributions according to geographical groups are contained in paper No. 2).[2] Of this amount, $99 million relates to prior years. But, as of 16 March 1998, the total amount of outstanding assessed contributions (at the March United Nations rate of exchange of US$ 1 = AS 12.70) had been reduced to $146,943,146, of which $96,958,441 relates to prior years.

7. The amount on 19 January could be presented by using various criteria. However, for the purpose of this exercise, the information has been summarized by the following groupings:

Outstanding assessed contributions in US$ equivalent, as at 19 January 1998
(In millions of US$)

	Including 1998 assessed contributions		Excluding 1998 assessed contributions (arrears)		Voting rights lost/ total no. of countries
		Part A			
		%		%	
List A and List C countries	27.9	16.9	19.2	19.4	58/123
List B countries	110.4	67.0	60.6 (USA)	61.2	0/22
List D countries	25.0	15.2	18.2	18.4	11/19
Other countries	1.4	0.9	1.0	1.0	3/4
TOTAL	164.7	100.0	99.0	100.0	72/168
		Part B			
African countries	2.2	1.3	1.8	1.8	26/44
Arab countries	6.2	3.8	4.4	4.4	7/19
Asia and Pacific countries	5.2	3.2	2.4	2.4	7/25
Latin America and Caribbean countries	12.1	7.3	8.8	8.9	16/32
Least developed countries	2.1	1.3	1.8	1.8	28/43

[1] According to financial rule 110.7, all UNIDO transactions, in currencies other than United States dollars, shall be recorded at the official accounting rate of exchange between the United States dollar and other currencies established by the United Nations.

[2] References in the present document to papers No. 2 through 11 refer to informal papers submitted to the discussion group during the course of its work.

B. Proposed solutions

(i) Arrears owed by LDCs

8. The LDCs (43) are experiencing a very critical economic and social situation. The reasons for the non-payment of their assessed contributions are numerous. The most important reason is the scarcity of foreign currency, which does not permit them to fulfil their international obligations. However, it should be noted that despite these difficulties nine LDCs have fully met their financial obligations towards the Organization, while a number of others have made partial payment.

9. While encouraging LDCs in a position to do so to continue to fulfil their financial obligations in convertible currencies, it is proposed that they be allowed to make payment in local currency through payment plans.

- Payment in local currency could be made to the local UNDP office that could utilize that payment and transfer it to UNIDO in United States dollars. It should be noted that UNIDO has occasionally accepted payments in local currencies through UNDP. In such cases, UNDP decides whether to accept local currencies based on its short-term cash requirements, taking into account local conditions. UNDP then remits the equivalent in United States dollars to UNIDO at the United Nations operational rate of exchange in effect at the date of utilization (see annex, letter from the UNDP Treasurer, Mr. Walter Gore).

- Settlement through a payment plan

10. The payment plans, if approved for eligible Member States, would allow the scheduling of arrears, and would result in the liquidation of those arrears over the agreed period of time. Payment plans also include a reaffirmation of Member States to meet their financial obligations. This mechanism has been introduced with some success in other United Nations organizations (FAO, ICAO, ILO, IMO, ITU, UNESCO, UPU, WHO, WIPO and WMO).

11. It should be noted that under the provisions of paragraph 3 (a) of its resolution 49/19B of 23 December 1994, the General Assembly empowered the Secretary-General to accept, at his discretion and after consultation with the Chairman of the Committee on Contributions, a portion of the contributions of Member States for the calendar years 1995, 1996 and 1997 in currencies other than United States dollars and that 11 Member States had availed themselves of that opportunity.

12. Under a payment plan, the eligible Member States among LDCs may choose to pay in local currency, converted into United States dollars by UNDP, the arrears of assessed contributions.

Model framework for the payment plan

13. The model procedure proposed herein could serve as a reference in the individual negotiations between the applicant Member State and the Organization. Thus, the plan shall include:

(a) A provision by which UNDP is willing to accept the local currency based on the local cash requirements of its field offices;[3]

(b) The period for its implementation: The maximum period for the payment plan should not exceed five years;

(c) The annual amount of arrears to be paid (in addition to the annual assessed contribution);

(d) The date and the amount of the first payment;

(e) A provision by which UNDP will transfer the equivalent in convertible currency directly to UNIDO Headquarters;

(f) The reference to the eventual exchange rate gains or losses which would be credited or debited to the Member State concerned (see paper No. 4);

(g) A commitment from the Member State to pay its future assessed contributions in full and on time and in accordance with the financial regulations.

14. It is recalled that voting rights are governed by the respective rules of procedure of the governing bodies, i.e. rule 91 of the General Conference, rule 50 of the Industrial Development Board and rule 42 of the Programme and Budget Committee. When considering applications for the restoration of voting rights, the competent body may regularly take into account the state of payments made under an agreed payment plan.

15. In the case of non-adherence to the agreed payment plan, including the payment of the current year's contribution, the remaining amount owed by the Member State should be considered as arrears, subject to the measures described in paragraph 23 below of the present document.

16. The implementation of these two measures (payment plans in local currency) is expected to lead to more predictable payment patterns and to solve the case of some 34 countries, which owe approximately **a total of**

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[3]In this context, the Secretariat should provide the Treasurer of UNDP with a list of countries concerned and amounts likely to be involved.

$2 million. It is understood that cost effectiveness is a key element in the implementation of those measures.

(ii) Other countries in arrears

17. For the countries of this category, it is proposed that arrears be settled through payment plans as described in paragraph 12 above in United States dollars and Austrian schillings, established as a framework through appropriate negotiations undertaken at the initiative of the interested Member State.

18. It goes without saying that the issue of payment of arrears should be at the top of the agenda of the Director-General and other senior officials during their visits and contacts with the authorities of Member States, in particular with regard to those countries that owe large amounts.

19. Delay in payment of assessed contributions often results from bureaucratic and cumbersome procedures in capitals. It is therefore essential that Permanent Missions accredited to UNIDO should play an active role in the collection of contributions. This problem can be alleviated if the Secretariat reminds those countries six months before the General Conference that there is a risk of losing their voting rights and renews the warning one month before in order to expedite the fulfilment of their financial obligations. The role of the regional groups is also critical in this respect. In an effort to improve relations with the relevant governmental authorities, it is also important that UNIDO should be provided with the "contact persons" in the ministries of finance, foreign affairs or industry.

III. ENSURING TIMELY PAYMENT OF ASSESSED CONTRIBUTIONS

A. Current situation

20. As highlighted in document GC.7/20, the partial or delayed payment by some Member States had placed the Organization in a very serious and unprecedented cash crisis. As of 30 September 1997, the available cash balance was only $8.5 million, which was hardly sufficient to meet the Organization's requirements for one month (as of 16 March 1998, the cash balance was some $9 million, excluding the Working Capital Fund).The fully depleted Working Capital Fund made the situation even more alarming. There was thus a high risk of UNIDO becoming insolvent. The situation continues to be critical. Moreover, no funds have been made available so far for the payment of separation indemnities for the staff reduction exercise ($10.8 million required).

21. The solution to this critical financial problem requires, on the one hand, the recovery of arrears and, on the other, the establishment of appropriate measures to encourage timely payments and to discourage late payments.

B. Proposed solutions

22. The proposed measures should be brought to the attention of all Member States in the letter from the Director-General aimed at collecting the assessed contributions.

23. Various types of incentive schemes to encourage timely payments are used in other organizations. Incentive schemes distribute incentive points to eligible Member States depending on the timing and amount of payments made during a given year. Interest earned on surplus cash balances could be set aside in a special account as a financial incentive directly linked to the incentive points awarded to an eligible Member State. The corresponding amount could be deducted from future assessed contributions or could be used for purposes specified by the Member State.

24. One incentive mechanism is to use the "S" curve formula, which is used in many United Nations organizations and has the advantage of giving comparatively greater incentive to those Member States paying early in the year, while at the same time giving some incentive to those paying in the second half of the year. The "S" curve is a mathematical formula that allocates incentive points to Member States based on the date of payment and amount paid. The formula is applied to the incentive amount to be shared among Member States (e.g. the incentive amount may be the interest earned under the regular budget in a given year). The formula for calculation of incentive points based on date of payment is described in paper No. 3. It is understood that this incentive should be calculated according to the legal fiscal year presently used in UNIDO (see paper No. 9).

25. Furthermore, early payers may be more favourably considered for UNIDO services, such as procurement and consultancy contracts, as far as the principle of the lowest technically acceptable bid is respected (see para. 28 below). Bearing in mind that decisions reside primarily within regional groups, the timely payment of assessed contributions **could be one of the elements** to be duly taken into consideration by the regional groups when designating their representatives in the Industrial Development Board and the Programme and Budget Committee and nominating their candidates for offices of sessions of the governing bodies.

26. Besides the loss of voting rights in accordance with Article 5 of the Constitution, the Member State that does not respect the provisions of the Constitution with regard

to that Article or of the mutually agreed payment plan and continue to accumulate arrears, should not benefit from the incentives described above.

27. The group should bear in mind that these measures might not be sufficient to eliminate all arrears, especially those of the Member States not represented in Vienna and/or not participating in the work of the governing bodies, especially when no technical cooperation project is being implemented in those countries and when the country is not benefiting from UNIDO services.

28. In conclusion, it is important to emphasize that the measures mentioned in this document appear to be consistent with overall constitutional and financial regulations of UNIDO. However, it would be useful if the governing bodies could adopt a decision on these schemes and corresponding financial regulations and rules, namely: financial rule 4.2(c) (which provides that, at the end of the twelve-month period ... the then remaining balance of any regular budget appropriations retained shall be surrendered within thirty days to the Members in proportion to their assessed contributions financial regulation) and financial rule 109.21 (which requires that contracts shall be awarded to those firms or institutions that have tendered the lowest, technically acceptable proposal).

29. The intersessional working group on proposed amendments to the Financial Regulations of UNIDO would be requested to take such a decision by the governing bodies fully into account.

IV. ARREARS OWED BY THE UNITED STATES

A. Present situation

30. According to General Conference resolution GC.7/Res.2 of 4 December 1997, the open-ended discussion group was requested to "examine the various options contained in document IDB.18/18, as well as any other proposals coming from Member States, and to make concrete recommendations to the Industrial Development Board at its nineteenth session".

31. On 31 December 1996, the United States of America ended its membership in UNIDO. As of 16 March 1998, the United States owed $60,601,458 (in US dollar equivalent). These arrears remain unpaid despite repeated appeals to the Government of the United States by the General Conference, Industrial Development Board, Programme and Budget Committee as well as the Director-General of UNIDO.

B. Options

32. In document IDB.18/18 of 6 November 1997, the Director-General proposed two kinds of options:

(a) Political options: Contact Group of Member States, enlisting the support of non-governmental organizations and industry groups, purchase and procurement linkages and a debt settlement option;

(b) Legal options: International Court of Justice, arbitration and a suit in a United States judicial forum.

33. Furthermore, in accordance with resolution GC.7/Res.2, other proposals coming from Member States should be examined by the group. The issue of reimbursement of income taxes to United States nationals was considered in the discussion group. The group was of the view that the United States should reimburse the 1995-1996 income taxes and, if necessary, to further discuss the issue at the nineteenth session of the Board (see paper No. 5).

34. In considering the problem of arrears owed by the United States, it is proposed that the group be guided by the following:

(a) The necessary involvement of the United States Permanent Mission to the United Nations (Vienna);

(b) Addressing the issue from the perspective of a possible return of the United States to UNIDO;

(c) That the executive organ of the United States recognizes its obligation towards the Organization and has shown its readiness and willingness to pay as soon as authorized by the legislative branch;

(d) That any measures adopted in this regard should be in full conformity with international law, bearing in mind the procedures acted upon by the General Assembly and other organizations in a similar position;

(e) It is beyond any doubt that all United States arrears to UNIDO are due to be paid in full in conformity with Articles 6.3 and 15.1 of the Constitution. No reduction of the amount owed to UNIDO can be accepted or proposed among the options to be considered for settling those arrears.

35. On the basis of paper No. 10 and after the discussions within the group, it is recommended to focus, for the moment, on the political options. In this regard, the group recognized that maintaining contact with the United

States' authorities is necessary to keep abreast of the actual situation and any other developments. In this context, the idea of establishing a contact group was thoroughly discussed. Since the principle of its establishment is closely interlinked both to its composition and to the modalities of such a mechanism, a final decision in this respect should therefore take place when a comprehensive proposal is submitted by the Director-General to the nineteenth session of the Board. Also in the context of maintaining contact with the United States' authorities, the group was of the opinion that the tax reimbursement agreement should be renewed.

36. The group was also of the view that the Director-General should set up a new communication strategy towards non-governmental organizations and industrial groups in the United States to make them aware of the recent reforms adopted by the Organization as well as of the issue of the arrears owed by the United States.

37. With regard to the legal options, and while the proposals related to "the debt settlement", the "resort to arbitration" and the "filing of a suit in a United States judicial forum" did not meet with support, the possibility of requesting an advisory opinion of the International Court of Justice was kept as a last alternative, and therefore should be discussed further within the context of the Industrial Development Board.

V. CONCLUSION

38. The group is invited to consider that the mandate entrusted to it is part of the UNIDO reform process, as the timely payment of assessed contributions and the subsequent restoration of voting rights are critical for the preservation of efficiency and universality, while strengthening legality within the Organization.

39. After the group's recommendations have been adopted by the Board at its nineteenth session (18-20 May 1998), the Director-General should start their implementation, with due regard for their cost-effectiveness. This should include the publicizing of the recommendations and entering into negotiation with interested Member States. The Director-General should also report on a regular basis to the policy-making organs and to the General Committee of the General Conference on the progress achieved on the settlement of arrears and of the timely payment of assessed contributions.

Annex

Letter from Walter Gore, Treasurer, UNDP

United Nations Development Programme
Sustainable human development

UNDP

24 December 1997

Dear Mr. Ambassador,

Re: Timely Payment of Assessed Contributions to UNIDO

Thank you for your updated letter received by fax on 22 December 1997, regarding the subject and UNDP's possible assistance in that regard.

I am pleased to advise you that UNDP does indeed have standard procedure by which it may offer UN agencies the opportunity to make use of UNDP's local presence in various countries by accepting local currency contributions in favour of the agencies into UNDP bank accounts. This offer, however, must be tempered by UNDP's need for the currencies involved.

Thus, UNDP would be prepared to receive local currency assessed contributions on behalf of UNIDO from UNIDO member governments, but with the proviso that UNDP will only provide US dollar credit to UNIDO at such time that UNDP has actually utilized the funds received. The credit would then be provided at the UN operational rate of exchange in effect at the date of utilization. This condition is essential to UNDP to ensure that UNDP will not suffer any devaluation losses as a result of our accepting such currencies. In most instances, the currency is used fairly quickly, but in all cases UNDP funds, irrespective of when received, are always considered to be used before funds received for other agencies. The utilization of all other funds is considered in the order in which received.

If you are able to provide me with a list of the countries and amounts likely to be involved, my office will provide you with an estimate of UNDP's ability to use those amounts, based on current conditions, as an indication for your review.

Please accept my best wishes for the holiday season.

Sincerely yours,

Walter Gore
Treasurer